# IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 10TH APRIL 2007 / 20TH CHAITHRA 1929

## INSURANCE APPEAL No.52 of 2004

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I.C.A.NO.1/2001 OF EMPLOYEES' INSURANCE COURT, ALAPPUZHA

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**APPELLANT**/APPELLANT:-

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C.S.RAMESAN, AGED 46 YEARS,
CHAKKALAKAL HOUSE, ARATTUVAZHI, ALAPPUZHA.

BY ADV. SRI.R.PARAMESWARAN NAIR
SRI.C.UNNIKRISHNAN (KOLLAM)

**RESPONDENTS**: OPPOSITE PARTIES:-

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1. THE REGIONAL DIRECTOR,
E.S.I. CORPORATION, TRICHUR-20.

2. FOAM MATTINGS (INDIA) LIMITED,
FOMIL, ALAPPUZHA.

R1 BY STANDING COUNSEL SMT.T.D.RAJALAKSHMY.
R2 BY ADV. SRI.M.PATHROSE MATTHAI (SR.)

SMT.A.PARVATHI MENON
SRI.RONY J.PALLATH

THIS INSURANCE APPEAL HAVING BEEN FINALLY HEARD ON 10/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**K.Padmanabhan Nair,J.**

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Insurance Appeal No.52 of 2004

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Dated, this the 10th day of April, 2007

**JUDGMENT**

A workman, who filed appeal challenging a decision of the E.S.I. Medical Board, is the appellant. The appellant met with an accident during the course of employment and sustained employment injury. He underwent an examination by a Medical Board. The Board fixed his disability at 6%. Challenging that decision of the Board, the appellant filed an appeal before the Insurance Court. Before the Insurance Court, the appellant produced a disability certificate issued by the doctor, who was examined as P.W.2. Relying on the oral evidence of P.W.2 and Exhibit P2 medical certificate, the Insurance Court enhanced the disablement benefit from 6% to 20%, though P.W.2 had fixed 32% disability. Challenging that decision, the employee has filed this appeal.

2. I have carefully gone through the evidence of P.W.2 and Exhibit P2 certificate. It is not possible to accept the contention of the appellant that the entire percentage of disablement benefit fixed by P.W.2 has to be accepted. But, considering all aspects of the matter, I am of the view that the disablement benefit can be fixed at 25%.

In the result, the appeal is allowed in part. The disablement benefit in the case of the appellant is enhanced to 25%. I.A.No.2870 of 2004 shall stand dismissed.

K.Padmanabhan Nair
Judge

vku/-